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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,428	11/02/2006	David Bryant	50486-00001	9322
84233 7590 03/12/2009 March Fischmann & Breyfogle LLP 8055 E. Tufts Avenue, Suite 450 Denver, CO 80237				
EXAMINER NGUYEN, CHAU N				
ART UNIT 2831		PAPER NUMBER		
MAIL DATE 03/12/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/595,428

Applicant(s)

BRYANT, DAVID

Examiner

Chau N. Nguyen

Art Unit

2831

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38-47, 49 and 50 is/are allowed.
- 6) ☒ Claim(s) 28-37 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/3508)
Paper No(s)/Mail Date 10/15/08 & 2/6/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 28-37 and 48 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 5, 8 and 9 of U.S. Patent No. 7,019,217 in view of Berndt et al. (2,166,458). Patent '217 discloses a collet, a collet housing, an implement, a connecting element, and an aluminum housing. Patent '217 does not disclose the lumen having a length and a

substantially constant interior radius along the length nor the collet not being forcibly pulled through the second end of the collet housing. Berndt et al. (FIG. 3, col. 2, lines 20-23) discloses a fitting comprising a collet (15) having a lumen (16) with a length and a substantially constant interior radius along the length and the collet not being forcibly pulled through the second end of a collet housing (collet 15 not being pulled through collet housing 12). It would have been obvious to one skilled in the art to provide the lumen of Patent '217 with a substantially constant interior radius along the length and to keep the collet within the collet housing as taught by Berndt et al. to provide smooth contact between the collet and the core and to keep the core within the collet housing.

Allowable Subject Matter

3. Claims 38-47, 49 and 50 are allowed.
4. The following is a statement of reasons for the indication of allowable subject matter: Claims 38-47, 49 and 50 are allowed in view of Terminal Disclaimer filed on 1/26/ 2009 which is proper and has been recorded.

Response to Arguments

5. Applicant's arguments filed 1/26/2009 have been fully considered but they are not persuasive.

Regarding the rejection of claims 28-37 and 48, applicant alleges that it would not have been obvious to modify the collet of Bryant et al., which functions to mechanically secure a composite core to a fitting, by substituting elements of the member (150 of Berndt et al. that provide "limited compressive ability" and that are only provided by Berndt et al. to ensure good electrical contact.

Examiner disagrees. The Office Action does not propose to substitute elements of the member (15) of Berndt et al. for the collet of Bryant et al., instead the Office Action proposes to provide the lumen of Bryant et al. with a substantially constant interior radius along the length of the collet to provide a smooth contact between the collet and the core as taught by Berndt et al.

Berndt et al. discloses that "in the absence of the slot and recess the member (15) would have absolutely no compressive ability but as a result thereof the member has limited compressive ability and **will therefore grip the wire or conductor sufficiently to insure a good contact between the parts**".

Accordingly, the member (15) of Berndt et al. has a compressive ability to insure a good contact between the member and the core. The member (15) is placed

between the core and the collet housing (12), obviously there would be a limited compression thereof. Moreover, the claimed invention calls for "*said lumen configured and dimensioned to frictionally engage the composite core for the length of the lumen, the interior radius of the lumen configured and dimensioned to maintain the structure of the composite core*". There is no citation regarding the compressive limitations in the claims.

Summary

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N. Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F.F. Gutiérrez can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Chau N Nguyen/
Chau N Nguyen
Primary Examiner
Art Unit 2831